

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**NANCY KOENIG,**

**Plaintiff,**

**VS.**

**CBIZ BENEFITS & INSURANCE  
SERVICES, INC.,**

**Defendant and  
Third Party Plaintiff,**

**VS.**

**GARVEY & ASSOCIATES, INC.,**

**Third Party Defendant.**

**8:04CV486**

## ORDER

This matter is before the court on the plaintiff's Motion to Compel Discovery (Filing No. 112). The plaintiff's motion is deficient for failing to comply with the United States District Court for the District of Nebraska Civil Rules. First, the plaintiff failed to file a brief to accompany the motion, which raises substantial issues of law. **See** NECivR 7.1(a)(1). Second, the motion states the plaintiff's counsel made one attempt to resolve the discovery disputes to which the defendant CBIZ responded and agreed to make amendments. **See** Filing No. 112, Exhibits C and D. However, the plaintiff makes no showing as required by NECivR 7.1(i), that after personal consultation the parties were unable to reach an accord.

NECivR 7.1(i) states:

To curtail undue delay in the administration of justice, this court will not consider any discovery motion unless counsel for the moving party, as part of the motion, shows in writing that after **personal consultation** with counsel for opposing parties and **sincere attempts** to resolve differences, they are unable to reach an accord. This showing shall also recite the **date, time and place of such conference** and the **names of all persons** participating in them.

**See** NECivR 7.1(i) (emphasis added); **see also** NECivR 7.1(i)(1) (defining personal consultation). Since the plaintiff failed to make such a showing for the time period after August 15, 2005, the motion will be held in abeyance pending such a showing. Further, the moving plaintiff is reminded that evidentiary materials shall be filed separately with an index listing each item of evidence. **See** NECivR 7.1(a)(2). However, the plaintiff need not re-file the evidentiary materials already part of the court record. Upon consideration,

**IT IS ORDERED:**

1. The plaintiff's Motion to Compel Discovery (Filing No. 112) is held in abeyance pending compliance with rules the Nebraska local rules 7.1(a)(1) and (i).
2. The plaintiff shall have to **on or before November 10, 2005**, to file a brief and a written showing of compliance with NECivR 7.1(i), otherwise the motion will be deemed abandoned and denied.
3. The defendant CBIZ shall have ten days from the plaintiff's compliance with NECivR 7.1 to respond to the motion.

DATED this 31st day of October, 2005.

BY THE COURT:

s/Thomas D. Thalken  
United States Magistrate Judge